

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

SHAMONT SAPP,

No. 4:18-CV-00175

Plaintiff,

(Judge Brann)

v.

(Chief Magistrate Judge Schwab)

ALBERT LORD and
PENN STATE UNIVERSITY,

Defendants.

ORDER

JANUARY 16, 2019

On January 25, 2018, Plaintiff Shamont Sapp filed a complaint against Defendants Albert Lord and Penn State University.¹ On May 7, 2018, Defendants moved to dismiss that Complaint.²

On November 9, 2018, Chief Magistrate Judge Susan E. Schwab issued a Report and Recommendation that recommended dismissing Mr. Sapp's complaint for failure to state a claim upon which relief can be granted.³ Mr. Sapp filed objections to that Report and Recommendation on November 27, 2018.⁴

¹ ECF No. 1.

² ECF No. 25.

³ ECF No. 33.

⁴ ECF No. 34.

This Court has conducted a *de novo* review⁵ of Chief Magistrate Judge Schwab's Report and Recommendation, and agrees with its reasoning and conclusions. Therefore, **IT IS HEREBY ORDERED** that:

1. The Report and Recommendation of Chief Magistrate Judge Susan E. Schwab, ECF No. 33, is **ADOPTED IN ITS ENTIRETY**.
2. Defendants' Motion to Dismiss, ECF No. 25, is **GRANTED**.
3. Plaintiff's Complaint, ECF No. 1, is **DISMISSED WITH PREJUDICE**.⁶
4. The Clerk of Court is directed to close this case.

BY THE COURT:

s/ Matthew W. Brann
Matthew W. Brann
United States District Judge

⁵ 28 U.S.C. § 636(b)(1)(C) ("[A]ny party may serve and file written objections to [a magistrate judge's Report and Recommendation]. A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made. A judge of the court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.")

⁶ Because this Court finds that "amendment would be futile," *Phillips v. County of Allegheny*, 515 F.3d 224, 228 (3rd Cir. 2008), the dismissal is with prejudice. And because Plaintiff is a prisoner and his Complaint is being dismissed for failure to state a claim upon which relief may be granted, the dismissal will count as a "strike" under 28 U.S.C. § 1915(g). *See Byrd v. Shannon*, 715 F.3d 117, 122 (3rd Cir. 2013).